

REMARKS

The Office Action mailed on March 21, 2011 has been received and its contents carefully considered. Favorable reconsideration and allowance of the present patent application are respectfully requested in view of the following remarks. Upon entry of the present Response, Claims 1, 2, 8 and 10-24 are pending in the present application. Claims 1, 2, 8 and 10-24 stand rejected. Claims 1, 8, 15, 17-19 and 21 have been amended by way of the present Response. New Claim 25 has been added by way of the present Response. Applicant submits that upon entry of the present Response, Claims 1, 2, 8, and 10-25 are in condition for allowance. Moreover, Applicant submits that no new matter has been introduced by the foregoing amendments.

In order to clarify Applicant's invention and to vary the scope of protection recited in the claims, Claims 1, 8, 15, 17-19 and 21 are amended, and Claim 25 is added. Amended Claims 1, 15, 17-19 and new Claim 25 find support in the disclosure as originally filed. Specifically, amended Claims 1, 15, 17-19 and new Claim 25 find non-limiting support at paragraphs [0023], [0034], [0041], [0075], [0111] and [0152]. Therefore, amended Claims 1, 15, 17-19 and new Claim 25 are not believed to raise a question of new matter.¹

Claim 21 is amended to correct a grammatical informality.

¹ See MPEP 2163.06 stating that "information contained in any one of the specification, claims or drawings of the application as filed may be added to any other part of the application without introducing new matter."

35 U.S.C. § 103(a) Rejections

The outstanding Office Action rejects Applicant's Claims 1, 2, 8 and 10-14 under 35 U.S.C. § 103(a) as being unpatentable over Uchida (U.S. Patent No.: 7,246,243) in view of Lindo et al. (U.S. Patent Application Publication No.: 2002/0099858) (Lindo) and Bianco et al. (U.S. Patent No.: 6,256,737) (Bianco), and further in view of McCabe (U.S. Patent Application Publication No.: 2002/0095317). The outstanding Office Action further rejects Applicant's Claims 15-20, 23 and 14 under 35 U.S.C. § 103(a) as being unpatentable over Uchida in view of Lindo. The outstanding Office Action further rejects Applicant's Claim 21 under 35 U.S.C. § 103(a) as being unpatentable over Uchida in view of Lindo, and further in view of Bianco. The outstanding Office Action further rejects Applicant's Claim 22 under 35 U.S.C. § 103(a) as being unpatentable over Uchida in view of Lindo, and further in view of Robinson et al. (U.S. Patent Application Publication No.: 2008/0271116) (Robinson).

The Uchida, Lindo, Bianco, McCabe and Robinson patents fail to teach or suggest every limitation of the present invention.

Applicant respectfully submits that the present invention is patentable over Uchida in view of Lindo, Bianco, McCabe and Robinson, because the combination fails to teach every element of the claimed invention, as next discussed.

Amended Claim 1 now recites:

A method of electronically identifying and verifying an individual utilizing at least one biometric feature of the individual including the steps of: enrolling an individual into a database including: (a) inputting required particulars of the individual into the database and ascertaining the existence or otherwise of the particulars of the individual in the database, wherein the particulars include at least one of images and binary data,

wherein the binary data include any representation capable of being stored in a binary form; . . . wherein at least one spatially separated server is located outside the country and wherein upon positive identification and verification of the individual access is given to an auxiliary means including access to secured doors, database, computer network and servers, and wherein the biometric features include fingerprint, retina, iris, pal print, face, handwriting, handprint, signature, voice recording or any other biometric feature capable of capturing through scanner.

Amended Claim 15 now recites:

An electronic means of identifying and verifying an individual presenting for such identification and verification including: a means to enroll an individual into a database including: (a) a means to input required particulars of the individual into the database and ascertaining the existence or otherwise of the particulars of the individual in the database, wherein the particulars include at least one of images and binary data, wherein the binary data include any representation capable of being stored in a binary form; (b) a means to capture the biometric features of the individual wherein key features of the biometric raw data are extracted; (c) a means to encrypt in a dynamic manner the biometric features, the method of encryption selected based on factors including the computing power of a registration computer, the computing power of a server computer, and network bandwidth; and (d) a means to transmit the encrypted data of the biometric features to the server and storing the encrypted data in relation to the particulars of the individual obtained in step (a) above; a means to verify an individual in the database including: (i) a means to capture at least one type of biometric features of the individual; (ii) a software means to encrypt in a dynamic manner the biometric features captured in (i), a method of encryption selected based on factors including the computing power of a registration computer, the computing power of a server computer, and network bandwidth; (iii) a transmission means wherein the encrypted biometric features of the individual are transmitted to a server; (iv) a software means to capture the encrypted biometric features presented for identification and verification against stored encrypted biometric features of a purported individual; and (v) a means to give access to other database or software if a positive identification and verification is made and to deny such access if a negative identification and verification is made, wherein the biometric features include fingerprint, retina, iris, palm print, face, handwriting, handprint, signature or voice recording or any other biometric features capable of being captured by scanners.

Amended Claim 19 now recites:

An electronic means of identifying and verifying an individual presenting for such identification and verification including: a means to enroll an individual into a database including: (a) a means to input required particulars of the individual into the database and ascertaining the existence or otherwise of the particulars of the individual in the database, wherein the particulars include at least one of images and binary data, wherein the binary data include any representation capable of being stored in a binary form; (b) a means to capture the biometric features of the individual wherein key features of the biometric raw data are extracted; (c) a means to encrypt in a dynamic manner the biometric features, the method of encryption selected based on factors including the computing power of a registration computer, the computing power of a server computer, and network bandwidth; and (d) a means to transmit the encrypted data of the biometric features to the server and storing the encrypted data in relation to the particulars of the individual obtained in step (a) above; a means to verify an individual in the database including: (i) access apparatus with a means to capture at least one biometric raw data of an individual in a secure manner using dynamic encryption, wherein the biometric raw data include fingerprint, retina, iris, palm print, face, handwriting, handprint, signature or voice recording or any other biometric features capable of being captured by scanner; (ii) circuitry to extract any features of the biometric raw data from the means to capture the biometric raw data; (iii) circuitry to encrypt the key features of the biometric raw data in a dynamic manner, a method of encryption selected based on factors including the computing power of a registration computer, the computing power of a server computer, and network bandwidth; (iv) transmission means to transmit encrypted data of the biometric features to at least one server; (v) at least one server to receive and store the encrypted data of the biometric feature of the individual; and (vi) circuitry to at least one of verify and identify the encrypted data against pre-stored encrypted biometric data in the server.

However, the Uchida patent fails to teach a device *wherein the particulars include at least one of images and binary data, wherein the binary data include any representation capable of being stored in a binary form*. Rather, as the Examiner points out in the Response to Arguments of the most recent Office Action, “Uchida teaches that the particulars are an ID (alpha numeral) – see column 4 line 56 – column 5 line 3 and

column 5 lines 17-25, for example.”² Furthermore, Lindo, Bianco, McCabe and Robinson fail to teach a device *wherein the particulars include at least one of images and binary data, wherein the binary data include any representation capable of being stored in a binary form.*

Moreover, the Uchida patent fails to teach a device *wherein the biometric features include fingerprint, retina, iris, palm print, face, handwriting, handprint, signature, voice recording or any other biometric feature capable of capturing through scanner.* Rather, as the Examiner points out in the Response to Arguments of the most recent Office Action, “Uchida teaches that the biometric is a finger print – see figure 13 and column 3 line 64 – column 4 line 18, for example.”³ Specifically, Uchida patent teaches a device wherein only fingerprint data are detected, obtained and later deciphered.⁴ Furthermore, Lindo, McCabe and Robinson fail to teach a device *wherein the biometric features include fingerprint, retina, iris, palm print, face, handwriting, handprint, signature, voice recording or any other biometric feature capable of capturing through scanner.*

Therefore, the combination of the Uchida in view of Lindo, Bianco, McCabe and Robinson patents fails to teach *every* element of the claimed invention.

For at least the foregoing reasons, Applicant respectfully submits that independent Claim 1, dependent Claims 2, 8, 10-14 and 17, which are dependent on Claim 1, independent Claim 15, dependent Claims 16 and 18, which are dependent on Claim 15, independent Claim 19, and dependent Claims 20-25, which are dependent on Claim 19, are patentable over Uchida, in view of Lindo, Bianco, McCabe and Robinson.

² See outstanding Office Action at page 5, lines 3-4.

³ See outstanding Office Action at page 12, lines 4-5.

⁴ See, for example, Uchida, column 4, lines 5-9, 49-52 and 59-60; Fig. 1; Fig. 6 and Fig. 13.

There is no evidence of motivation to combine the Uchida, Lindo, Bianco and McCabe patents.

The outstanding Office Action recites:

It would have also been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the teachings of Uchida, Lindo et al., and Bianco et al. by locating the server in another country, for the purpose of increased security, based upon the beneficial teachings provided by McCabe. These modifications would result in increased power conservation, efficiency, backup protection, and security⁵

Applicant respectfully further traverses the rejection because there is no sufficient *evidence* of record for the required motivation to modify the teachings of Uchida, Lindo and Bianco by locating the server in another country to improve security and efficiency.⁶

The Uchida patent fails to suggest why a person of ordinary skill in the art would be motivated to locate the server in another country. In particular, the Uchida patent states that combining the finger print sensor 11, the feature extraction unit 12, the decryption unit 13 and the cipher-key generator 14 in the same unit, as well as the use of encryption, already achieve Uchida's goal of security.⁷ The Uchida patent does not suggest that an additional feature is needed to achieve its intended goal. Specifically, the

⁵ See outstanding Office Action at page 7, lines 9-14.

⁶ See MPEP 2143.01 stating "[o]bviousness can only be established by combining or modifying the teaching of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art," (citations omitted). See also MPEP 2144.08 III stating that "[e]xplicit findings on motivation or suggestion to select the claimed invention should also be articulated in order to support a 35 U.S.C. 103 ground of rejection. . . . Conclusory statements of similarity or motivation, without any articulated rational or evidentiary support, do not constitute sufficient factual findings."

⁷ See the Uchida patent, for example, at column 4, lines 14-18, and column 5, lines 55-61.

Uchida patent does not suggest that locating the server in another country, as in the McCabe patent, would be desired.

The Lindo patent fails to suggest why a person of ordinary skill in the art would be motivated to locate the server in another country. In particular, the Lindo patent states that the use of callable layers, as well as the implementation of a data aggregation operation configured to aggregate data from different sources, already achieve Lindo's goal of efficiency.⁸ The Lindo patent does not suggest that an additional feature is needed to achieve its intended goal. Specifically, the Lindo patent does not suggest that locating the server in another country, as in the McCabe patent, would be desired.

The Bianco patent fails to suggest why a person of ordinary skill in the art would be motivated to locate the server in another country. In particular, the Bianco patent states that its multi-user biometric policy, as well as the use of session keys when transporting biometric templates in an encrypted format over a network, already achieve Bianco's goal of security.⁹ Furthermore, the Bianco patent states that the use of object-oriented programming, as well as storing biometric templates 502 within network system 202 in a hierarchical structure or accessing a hierarchical directory to locate biometric templates 502 within network system 202, already achieve Bianco's goal of efficiency.¹⁰ The Bianco patent does not suggest that an additional feature is needed to achieve its intended goals. Specifically, the Bianco patent does not suggest that locating the server in another country, as in the McCabe patent, would be desired.

⁸ See the Lindo patent, for example, at paragraphs [0073] and [0078].

⁹ See the Bianco patent, for example, at column 49, lines 26-38, and column 51, lines 13-16.

¹⁰ See the Bianco patent, for example, at column 22, lines 1-14, and column 52, lines 21-44.

The Uchida, Lindo, Bianco and McCabe patents, therefore, do not provide the motivation to perform the proposed modification of the Uchida, Lindo and Bianco devices. In other words, an attempt to bring in the isolated teaching of the McCabe patent for locating the server in another into the Uchida, Lindo and Bianco devices, would amount to improperly picking and choosing features from different references without regard to the teachings of the references as a whole.¹¹ While the required evidence of motivation to combine need not come from the applied references themselves, the evidence must come from *somewhere* within the record. In this case, there is nothing in the record supporting the Office Action's proposed modification of the Uchida, Lindo and Bianco patents.

¹¹ See In re Ehrreich 590 F2d 902, 200 USPQ 504 (CCPA, 1979) (stating that patentability must be addressed "in terms of what would have been obvious to one of ordinary skill in the art at the time the invention was made in view of the sum of all the relevant teachings in the art, not in view of first one and then another of the isolated teachings in the art," and that one "must consider the entirety of the disclosure made by the references, and avoid combining them indiscriminately.")

CONCLUSION

Consequently, in view of the present amendment and in light of the above discussion, the outstanding grounds of rejection are believed to have been overcome. The application, as amended, is believed to be in condition of allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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